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IN THE
COURT OF APPEALS OF INDIANA

A.T.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-0802-JV-116
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn Moores, Judge
The Honorable Geoffrey Gaither, Magistrate
Cause No. 49D09-0712-JV-3791

October 3, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

A.T. appeals her adjudication as a delinquent child for committing an act that would be Class B felony attempted arson if committed by an adult. Specifically, A.T. contends that the evidence is insufficient to prove that property was damaged under circumstances that endangered human life. Because A.T.'s act of setting a fire in a bathroom while a school of over 900 teachers and students was in session is sufficient, we affirm the juvenile court's adjudication of A.T. as a delinquent child.

Facts and Procedural History

Around 1:15 p.m. on December 4, 2007, Troy Inman, principal of New Augusta North Public Academy in Indianapolis, received a report of a fire in the girls' restroom. Principal Inman and the assistant principal went to the restroom, where it was "very, very smok[y]," observed flames in a trash can, and extinguished the fire by putting water on the fire. Tr. p. 23. There were approximately 910-12 people in the building at the time.

After Principal Inman returned to his office, A.T. was there waiting for him. Principal Inman asked A.T. if she started the fire, and A.T. said, "Yes." *Id.* at 19. When he asked her why she would do such a thing, A.T. responded, "I hate New Augusta and I want to burn it down." *Id.* at 20. Principal Inman then asked A.T. if she wanted to kill everybody in the school, and A.T. responded, "Not everybody." *Id.* As for Principal Inman, A.T. referred to him as "collateral damage." *Id.* Principal Inman said A.T. was "very, very calm" during this discussion. *Id.* A.T. also wrote a statement in which she admitted to starting the fire. When officers from Pike Township Schools arrived, Principal Inman gave them A.T.'s written statement. A.T. told the officers that she was

having homicidal thoughts and thought that she was being treated unfairly. When A.T. was arrested, knives were found in her possession.

On December 5, 2007, the State filed a delinquency petition alleging that A.T. committed what would be Class B felony attempted arson and Class A misdemeanor criminal mischief if she were an adult. A denial hearing was held, and the juvenile court entered a true finding as to both counts. Thereafter, A.T. filed a motion to dismiss the criminal mischief count on double jeopardy grounds. The dispositional hearing was held. In its Dispositional Order, the juvenile court adjudicated A.T. a delinquent child and listed only a true finding for attempted arson. In addition, the court awarded wardship of A.T. to the Department of Correction but suspended that commitment and placed A.T. on probation with special conditions, including treatment at Valle Vista. A.T. now appeals.

Discussion and Decision

A.T. contends that the evidence is insufficient to support the true finding that she committed Class B felony attempted arson. When the State seeks to have a juvenile adjudicated to be a delinquent for committing an act that would be a crime if committed by an adult, the State must prove every element of the crime beyond a reasonable doubt. *J.S. v. State*, 843 N.E.2d 1013, 1016 (Ind. Ct. App. 2006), *trans. denied*. Upon review of a juvenile adjudication, this Court will consider only the evidence and reasonable inferences supporting the judgment. *Id.* We will neither reweigh the evidence nor judge witness credibility. *Id.* If there is substantial evidence of probative value from which a reasonable trier of fact could conclude that the defendant was guilty beyond a reasonable doubt, we will affirm the adjudication. *Id.*

The delinquency petition in this case alleges that A.T., by means of fire or explosive, knowingly or intentionally attempted to damage property of New Augusta North Public Academy under circumstances that endangered human life by setting a fire in a trash can in a school occupied by students and staff at a time when she felt homicidal, which constituted a substantial step toward the commission of arson. Appellant's App. p. 11. Arson is defined by statute in part as follows:

> (a) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages:
>
> * * * * *
>
> (2) property of any person under circumstances that endanger human life[.]

Ind. Code § 35-43-1-1(a)(2). "A person attempts to commit a crime when, acting with the culpability required for commission of the crime, he engages in conduct that constitutes a substantial step toward commission of the crime." Ind. Code § 35-41-5-1(a).

Here, A.T. wrote a statement in which she admitted to "set[ting] the bathroom on fire" and explained that she was having homicidal thoughts at the time. Ex. p. 2. A.T. told Principal Inman that she hated New Augusta and wanted to burn it down. When Principal Inman asked A.T. if she wanted to kill everybody in the school, A.T. responded, "Not everybody." Tr. p. 20. As for Principal Inman, A.T. referred to him as "collateral damage." *Id.* As for the fire itself, Principal Inman testified that when he entered the girls' restroom, he could see flames in the trash can and said that it was "very, very smok[y]." *Id.* at 23. He then "grabb[ed]" water from the sink and "dump[ed]" it on the fire. *Id.* He said that it looked like someone tried to put out the fire before his arrival.

When police officers from Pike Township Schools arrived, they, too, saw smoke and noted the heavy smoke smell in the building. There was also fire damage to the restroom wall. Under these facts, we conclude that the State has proved beyond a reasonable doubt that A.T. engaged in conduct that constituted a substantial step toward knowingly or intentionally damaging, by means of fire or explosive, property of New Augusta under circumstances that endangered human life. The evidence is therefore sufficient.

A.T.'s suggestion that human life must have actually been endangered ignores the fact that this was a true finding for *attempted* arson.[1] As such, A.T. must have only taken a substantial step under circumstances that *could* endanger human life. Otherwise, the State would have filed a delinquency petition alleging that A.T. committed arson. Setting fire in a bathroom while a school of over 900 teachers and students was in session was just such a substantial step.

Affirmed.

KIRSCH, J., and CRONE, J., concur.

[1] We note that A.T.'s reliance on *Wooley v. State*, 716 N.E.2d 919 (Ind. 1999), *reh'g denied*, is misplaced. There, the defendant was acquitted of attempted arson, and the issue of sufficiency of the evidence was never before our Supreme Court. Therefore, *Wooley* is not helpful to the analysis in our case.